

APPROVED: MEETING NO. 26-85

ATTEST: *Helen M Heneghan*

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 19-85

April 8, 1985

The Mayor and Council of Rockville, Maryland, convened in executive session in the City Manager's Conference Room, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, April 8, 1985, at 7:05 p.m. for the purpose of consultation with the City Attorney.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter R. Hartogensis

Councilman John Tyner, II
(arrived at 7:35 p.m.)

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

There being no further business to come before the Mayor and Council in Executive Session, the meeting was adjourned at 7:45 p.m.

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, April 8, 1985, at 8:00 p.m.

PRESENT

Mayor Viola D. Hovsepian

Councilman Steve Abrams

Councilman Douglas Duncan

Councilman Peter R. Hartogensis

Councilman John Tyner, II

The Mayor in the Chair.

April 8, 1985

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Blick reported the following:

1. The Sister Cities Task Force has received photographs of the new recently named "Rockvillestrasse in Pinneberg (Rockville Street).
2. The Easter Egg Hunts were held yesterday, Easter Sunday, at Welsh Park and the Civic Center. There were approximately 1,500 people there which included spectators and participants. Four thousand candied eggs were given out and 8 people were awarded prizes in the Easter Hat Contest.
3. The Capital Improvements Program will be presented to the Mayor and Council on April 15 and the FY 86 Operating Budget on April 22.
4. The Gude Drive Bridge deck over I-270 is now under construction. Opening is planned for the end of July.
5. There have been some delays in construction at the First Street extension. It is now anticipated that it will open at the end of September.
6. The City Attorney reported that the Court of Appeals of Maryland has entered an order granting the City's motion for leave to intervene as amicus curiae and also permitting the Mayor and Council to file briefs on appeal as amicus curiae should the petition for certiorari be granted.

Mayor Hovsepian introduced Rev. Mansfield Kaseman of the Rockville United Church who introduced the 1985 Confirmandi.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. C.L. Short, re request for grant for the Children's Place

Councilman Tyner asked this be added to the Mayor and Council's wish list for Budget time.

2. Maryland Department of Economic Development re award competition
3. American Legion, re thank you
4. College Gardens Civic Association re duck pond

Councilman Abrams asked if the staff would come back with a cost analysis since the citizens have requested keeping the pond. If it is cost effective, he would like to see the neighborhood accommodated.

5. County Executive Re X-95-84
6. Lynne Roeca, re Richard Montgomery High School
7. Refuge Church of Christ re Lincoln Park/Police incident
8. MML re Insurance/Hospitalization plan

Councilman Tyner suggested the staff look into getting a quote on this Plan.

9. HUD, re Audit reports

Mayor Hovsepian asked for a report back from the staff.

10. State of Maryland, Director of Audits re accounting

Mayor Hovsepian asked for a report back from the staff.

11. HUD, re Fair Housing Month

Mayor Hovsepian asked that this be added to New Business.

12. Department of Natural Resources, re denial of enforcement authority

Councilman Tyner asked the staff to report back to the Council on just how the City will handle this.

13. Delegate Forehand, re legislation
14. Delegate Gordon, re Rt. 28 bridge repair

Re: Information Items

1. Senior Center Newsletter
2. Information on complaint at 300 Lincoln Avenue

Councilman Duncan said he is glad to see something is being done. The City Manager said the staff is following up and there will be an opportunity to share this with the community at the April 13 meeting.

3. Response from Director of Planning to citizen's statement

4. Memo from Director of Community Resource re Adoption of Lincoln Park Community Center
5. Letters commending City employees
6. Memo re Rockville Pike Absorption rate
7. Memo from Director of Community Resources re Lincoln Park Emergency Shelter

Mayor Hovsepien asked that this information be circulated and also the fact that the Shelter was used for women.

8. County letter re Montrose Road extension

Councilman Abrams said he is pleased to see the strong stance that has been taken by Mr. McGarry, with his support and a recognition of the City's calculations on Planning 12. He asked that a copy of this be forwarded to all the appropriate agencies of Montgomery County.

9. Memo re Rockville Pike Shuttle Project

Councilman Abrams said the Shuttle Project will also include some circulation through old downtown Rockville since it has been found there is an inadequacy of a regular route to service downtown location such as the senior housing. The realignment of new routes for access to Metro has cut out some of the shopping service that was available to seniors previously.

10. Cable television complaint
11. Thank you from Superintendent of Schools
12. Attorney General's testimony re HB 444
13. Memo from City Attorney re Md. v. Seabolt

Councilman Hartogensis commended the City Attorney on his prompt action and said he is most pleased with the grant from the Court.

14. Memo from City Attorney re Cherry v. Mont. Co. & Durham
15. Memo from City Attorney re 2 appeals
16. Copy of letter to DOT re lights on MD 189
17. Memo re Broome Park parking problem
18. Memo from City Attorney re Svanholm appeal
19. Copy of letter to Md. Historical Trust from Co. Exec. re Red Brick Courthouse
20. Memo re Lincoln Park ballfield renovation

21. Memo re Extension of Montrose Road

Councilman Tyner noted this is good information added to what was discussed earlier on Montrose Road.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Sima Osdoby, New Mark Commons Land Use Committee. Ms. Osdoby said she was speaking for the 385 households in Planning Area 3. To those people Planning Area 12 is of critical importance. Two and a half years have been spent working as citizens on the Neighborhood Plan. She is very relieved to see Area 3 Plan being adopted this evening. She said she is not prepared this evening to comment on the revisions made by the Mayor and Council to Planning Area 12 at their work session on March 30 since there has been no time to study it due to the Holidays. She respectfully asked that the Mayor and Council postpone adoption until the neighborhoods have had time to review it. Except for the area that is already zoned I-3, the entire area should be residential. She said on March 26, New Mark Commons Attorney, Richard Ehrlich, met with the City Attorney and presented the position of the Association. That is, 1) a request that the area north of Ritchie Parkway be a planned residential unit of single family and townhouses similar to New Mark Commons, 2) the area south of Ritchie Parkway be 1.6 million square feet of commercial space, and 3) there be no through traffic north and south on Ritchie Parkway, that would go through the development. She said the Civic Associations opposes 2.1 million square feet overwhelmingly.

2. Steven Van Grack, 1917 South Fallsmead Way. Mr. Van Grack addressed the Westmont/Planning Area 12 and said this is the single most important decision this Mayor and Council will make. Rockville is a residential City and a favorable decision to Westmont is contrary to the best interest of the

residents and the business in the City. Last week's meeting showed that the citizen's are concerned with traffic, long-range planning and neighborhood preservation. There is no justification for Westmont since all traffic studies have been inadequate. Councilman Tyner thanked Mr. Van Grack for his comments and said he has summarized in one statement, questions the Council has been dealing with for the past two years.

3. Rev. Mansfield Kaseman, Director of United Center for Community Ministries. Rev. Kaseman asked that the Mayor and Council take action to support the people of South Africa and assemble forty people under the leadership of the City Manager to demonstrate their concern with democratic principles. Mayor Hovsepian thanked Rev. Kaseman for his comments and told him that the City Manager is preparing information on the City's investments and whether or not it is dealing with companies that invest in South Africa.

4. Phyllis Marcuccio, Vice-President of the Rockville Housing Authority. Ms. Marcuccio distributed the RHA Annual Report to the Mayor and Council and noted the highlights of this past year. She thanked Sandra Crewe, the Director of the Housing Authority, who has taken hold quickly of the administration of the Authority and also commended the students who worked on projects that the Housing Authority was interested in and that the Housing Authority will act on now that they have been made aware.

Councilman Tyner said the entire Rockville Housing Authority deserves a round of appreciation.

5. Richard Arkin, 525 Lynch Street. Mr. Arkin addressed the Council concerning the Wheel of Fortune Property and long range planning at the City borders. He said at the present time Rockville lacks flexible planning tools. These should be put into place so that the City can handle properties such as the Wheel of Fortune. This evening, when adopting the Text Amendment, the Council should consider making a change in the size limit so that the Wheel of

Fortune tract could be handled. Councilman Hartogensis said the City is currently working through the Maryland Municipal League to ask that the County consider the City's wishes when making changes at the City boundaries.

Councilman Duncan said T-66-84 is designed just for Planning Area 12; however, if it were applied to other areas, he could participate in the discussion. He asked Mr. Arkin what floor area ratio he is recommending. Mr. Arkin said he is simply recommending that the City have the tools to allow these properties to come into the City and then the City can exercise control. This could be done if the minimum acreage in the current text amendment is reduced.

6. Phyllis Blum, Markwood Citizens Association. Mrs. Blum said a plan was submitted at the March 30 work session on Planning Area 12 that contained new information. She is appalled at new information being provided at the very last minute. She appealed to the Mayor and Council not to rush into decisions that affect the entire City, particularly in the area of traffic. The citizens should come first.

7. Allen Berson, 1755 Glastonberry Way, President of the Horizon Hill Civic Association. Mr. Berson said he had sent a letter previously concerning Planning Area 12 and his community is opposed. One of the reasons for a higher development cited was the issue of an expanded tax base. There are some people who view commercial development as a tax reducer when in fact this should be looked at carefully because it is not entirely true.

There being no other citizen wishing to be heard, the Mayor closed the citizen's forum portion of the meeting.

Re: Public Hearing:
Amendment to the
Amended and Restated
Town Center Agreement

The Mayor and Council conducted a public hearing on the Amended and Restated Town Center Agreement and heard those persons as will be found in the

official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed and the record to be held open until Thursday, April 11, 1985, at 5:00 p.m.

Re: Adoption of
Resolution: To
establish a Permit
Parking District on
Woodland Road

Resolution No. 10-85

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Resolution No. 10-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, establishing a permit parking district on Woodland Road, was adopted by the Mayor and Council.

Re: Adoption of Resolu-
tion: To increase
the corporate bounda-
ries by adding 5.25
acres, more or less,
located at the inter-
section of Research
Boulevard and Gude
Drive, X-95-84, Mayor
& Council, Applicant,
and placement in the
I-3, Industrial Zone

Resolution No. 11-85

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 11-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, increasing the corporate boundaries by adding 5.25 acres, more or less, located at the intersection of Research Boulevard and Gude Drive, X-95-84, Mayor & Council, Applicant, and placement in the I-3, Industrial Zone, was adopted by the Mayor and Council.

Re: Introduction of
Ordinance: To amend
the zoning map by
adding 5.25 acres in
the I-3 Zone, X-95-
84, Mayor & Council,
Applicant.

On motion of Councilman Hartogensis, there was introduced upon the table, an ordinance amending the zoning map by adding 5.25 acres of land in the I-3 Zone, X-95-84, Mayor and Council of Rockville, Applicant, said application to lay over at least one week before final action is taken.

Re: Introduction of Resolu-
tion: Adopted pursuant to
Article XI-E of the Con-
stitution of Maryland,
Section 13 of Article 23A
of the Annotated Code of
Maryland, and the Charter
of the City of Rockville,
to amend Section 1.a of
Article II of the Charter
so as to limit the terms
of the Mayor and Council-
members to two (2) and
three (3) consecutive
terms in office,
respectively.

On motion of Councilman Hartogensis there was introduced upon the table, a Resolution to amend Section 1.a of Article II of the Charter of the City of Rockville, so as to limit the terms of the Mayor and Councilmembers to two (2) and three (3) consecutive terms in office, respectively. The public hearing will be held on July 8, 1985.

Re: Introduction of Resolution: Adopted pursuant to Article XI-E of the Constitution of Maryland, Section 13 of Article 23A of the Annotated Code of Maryland, and the Charter of the City, to amend Section 5 of Article II of the Charter so as to provide that a vacancy occurring in the office of the Mayor within the first six months of the term shall be filled by special election

On motion of Councilman Abrams, there was introduced upon the table, a Resolution to amend Section 5 of Article III of the Charter so as to provide that a vacancy occurring in the office of the Mayor within the first six months of the term shall be filled by special election. The public hearing will be held on July 8, 1985.

Re: Adoption of Ordinance: To Adopt the Planning Area 3 Neighborhood Plan as an amendment to the Adopted Master Plan

Ordinance No. 10-85

On motion of Councilman Tyner, duly seconded and unanimously passed, the following amendments were made to the Ordinance:

1. Page 2-15, Table 2, under column titled, "Proposed Zoning" change "I-3" to O-3. Under column titled Land Use Recommendations change "Office Park" to Restricted Office Park.
2. Page 3-1, next to last paragraph, insert the following new paragraph:

"Residential development occurring in Area 12 north of Ritchie Parkway may only be accessed by the extension of Monroe Street and/or Cabin John Parkway from the north into the property. In no event will connection be permitted to Ritchie Parkway in order to prevent cut-through traffic into the Hungerford and New Mark Commons areas."
3. Page 3-15, Delete strip of Monroe Street consistent with what is done on Planning Area 12.

4. Delete last 2 lines to ordinance on page three so that a period is inserted after March 25, 1985.
5. Page 3-15, Substitute Map.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Ordinance No. 10-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, adopting the Neighborhood Plan for Planning Area 3 as an amendment to the Master Plan was adopted as amended.

Mayor Hovsepian expressed her regrets to the Neighborhood Advisory Group in Area 3 for the long amount of time it took to have the Plan adopted.

Re: Adoption of
Ordinance: To Adopt
the Planning Area 12
Neighborhood Plan as
an amendment to the
Adopted Master Plan

Ordinance No. 11-85

(Councilman Duncan abstained from this item due to a potential conflict of interest)

Mayor Hovsepian said she would like to thank all the citizens and members of the Boards and a Commissions and staff for the many hours expended and particularly to the North Farm Neighborhood for the hours they spent working out a compromise to save additional hours for the Mayor and Council. She said she is considering voting against the Plan; however, she wants to be sure that the process is carried carefully through all the steps to completion.

Councilman Tyner said he is sorry that the Mayor cannot support the Plan since there were many issues of agreement made during the work sessions to bring about a delicate compromise. Councilman Abrams said he knew of nothing that used so many hours of quality time and a good deal of that time was spent going through a compromise to reach a consensus. He is most surprised to hear that Mayor Hovsepian cannot support the Plan. Mayor Hovsepian told the Council that she had made a clear statement of her position at a previous work session.

Discussion followed in which the Mayor reiterated her previously expressed concerns and Councilmembers Abrams and Tyner cited the instances in which the Council had agreed on the various decisions.

Councilman Hartogensis said he previously made a statement at the beginning of the deliberations and saw the value of a compromise. He feels the Plan may not be as each individual had wished it would be, but collectively it expresses the decision of the group. It is his hope that the Mayor and Council have made the best decision for the whole City.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all voting, the following amendments were made to the Plan:

1. Page IV-2 - Heading for Table 5 - correct dates from "1959-1983" to "1959-1984".
2. Page IV-3 - Heading for Table 6 - correct dates from "1966-1981" to "1966-1984"
3. Page V-4 - Change beginning construction date for I-270 Widening from "FY 1989" to "FY 1987".
4. Page V-6 - Under Planned Highway Improvements change reference to Dogwood "Road" to Dogwood "Park"
5. Page V-10, Map 12 - Delete dashed lines indicating Monroe Street extending south to New Ritchie Parkway
6. Page V-18, Revise Table 12 footnote *** to read as follows: "Because of the small amount of traffic from P.A. 12, this intersection is eliminated from further consideration."
7. Page VI-9, Table 15, fifth line from top of page, change the word "with" to "when"
8. Page VI-II, Identify Westmont Amenities Summary as "Table 16".
9. Page VI-14, paragraph 3 - Change reference of "2.1" to "2.2" in two places.
10. Page VI-17, Map 18 - Change legend to read "Restricted Office"
11. Page VI-18, last line - Change "2.1" to "2.2"

At this time, Mayor Hovsepien read a prepared statement in which she addressed the process, the Plan and the goals of the Plan. She said in her

judgment, in order for the Plan to achieve the goal of making Rockville "the best possible residential community" the Plan should have included a major residential component with a range of new housing opportunities. Since it did not, she could not support the Plan. Councilman Abrams spoke in favor of the Plan and said he has serious reservations about the residential component that is included in the Plan, but he did include it out of deference to the Mayor. He noted that since Rockville is located in the center of Montgomery County, and Montgomery County has made decisions to attract corporate headquarters to enhance the quality of development it would seem to him that, presuming EDS will not walk away, it would be as good a neighbor in Rockville as it has been in Plano, Texas. At the same time, he would hope that Planning Area 12 would serve as a basis to retain the Woodmont Country Club as open space. He also contended that the vote for the Plan gives the City control over the area and helps to maintain other residential areas. It was his feeling that the housing component could be a problem since it does not serve any of the purposes in the yet to be enacted Housing Policy. He also pointed out the present congested entrances to the North Farm community and stated that under the proposed Plan North Farm will be buffered from further penetration. Councilman Tyner said the decision was made not just for the City but for the County and State as a whole and he is particularly concerned with the message the City is sending out.

On motion of Councilman Hartogensis, duly seconded and passed, Councilmembers Abrams, Hartogensis and Tyner voting aye, Mayor Hovsepien voting nay, Ordinance No. 11-85, the full text of which can be found in Ordinance Book No. 12 of the Mayor and Council, adopting Planning Area 12 Neighborhood Plan as an amendment to the adopted Master Plan, was adopted as amended.

Re: Adoption of Ordinance
To Grant Text
Amendment Application
T-66-84, Rockville
Planning Commission,
Applicant

Ordinance No. 12-85

On motion of Councilman Abrams, duly seconded, the following amendments were made to the Ordinance:

1. Page 9, line 17; change density to detached, one-family dwelling units from "6" to "7" units per acre
2. Page 11, last line; substitute "45%" for "50%".

Councilman Tyner suggested the ordinance be further amended to reduce the acreage to 40 and he spoke for this since it would give the City another tool to handle other properties. Councilman Hartogensis spoke against the amendment since he felt it was not the proper procedure after all that had been gone through. Councilman Abrams supported the amendment. Mr. Davis told the Council that the FAR would be too low. It should be .4 or .5 in order to have a proper land use mix. The new zone would not be feasible on smaller properties. Councilman Tyner withdrew his additional amendment. Councilman Abrams' motion to pass the amendment was adopted unanimously.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all voting, Ordinance No. 12-85, the full text of which can be found in Ordinance Book No. 12. of the Mayor and Council, granting Text Amendment Application, T-66-84, was adopted as amended.

April 8, 1985

Re: Adoption of
Ordinance: To amend
Zoning Map and grant
Map Amendment Appli-
cation, M-41-85,
Rockville Planning
Commission, Appli-
cant

Ordinance No. 13-85

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all voting, Ordinance No. 13-85, the full text of which can be found in Ordinance Book No. 13-85, of the Mayor and Council, amending the Zoning Map and granting Map Amendment Application M-41-85, was adopted by the Mayor and Council.

Re: Adoption of Resolu-
tion: To adopt appli-
cation forms for
Comprehensive Planned
Development Concept
Plan Application

(At this time, Councilman Abrams left the meeting.)

Resolution No. 12-85

On motion of Councilman Hartogensis, duly seconded and passed by unanimous vote of all present, Resolution No. 12-85, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, adopting application forms for Comprehensive Planned Development Concept Plan Applications, was adopted.

(At this time, Councilman Abrams returned to the meeting)

Re: Adoption of Resolu-
tion: To establish a
new fee schedule for
zoning applications
and other application
and permits

Resolution No. 13-85

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Resolution No. 13-85, the full text of which can be found in Resolution Book No.

8 of the Mayor and Council, establishing a new fee schedule for zoning applications and other applications and permits, was adopted by the Mayor and Council.

Re: Introduction of Resolution: To enlarge the corporate boundaries of the City to include 11.41 acres of land, more or less, Covenant Properties East, Applicants, located on Rt. 28 across from Research Blvd.

On motion of Councilman Abrams, there was introduced upon the table a resolution to enlarge the corporate boundaries of the City of Rockville to include 11.41 acres of land, more or less, Covenant Properties East, Applicants, located on Rt. 28 across from Research Boulevard.

Re: Adoption of Resolution: To set hearing date for Annexation Petition, X-97-85, Covenant Properties, Rt. 28

Resolution No. 14-85

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 14-85, setting the hearing date for the Annexation Petition, X-97-85, was adopted by the Mayor and Council.

Re: Rockville Pike Corridor Plan:
A. Approval of planning process and schedule.
B. Approve preliminary goals and policies and set date for public forum.
C. Authorize study of the retail trends and potential

The Council agreed to postpone items "A" & "B" .

Item "C" - Authorizing study of the retail trends and potentials

An issue has surfaced from residents living in the Montrose neighborhood concerning the long-term viability of convenience and shopper goods retail establishments. In recent years citizens have noted a trend in new development away from the traditional strip retail centers to large single and mixed use developments that are predominantly office in character with only limited self-supporting retail uses.

Staff respects the views and observations of the neighborhood and recommends that additional effort be directed toward addressing the future prospects for retail activity as a primary component of the marketplace.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council authorized the study of the retail trends and potential.

Re: Approval of Minutes

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of Meeting No. 11-85, March 4, 1985, were approved as corrected.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote all those voting, (Councilman Duncan abstaining), the Minutes of Meeting No. 12-85, March 5, 1985, were approved as corrected.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Minutes of Meeting No. 13-85, March 7, 1985, were approved as corrected.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all voting, (Councilman Duncan abstaining), the Minutes of Meeting No. 14-85, March 7, 1985, were approved as written.

On motion of Councilman Tyner, duly seconded and passed by unanimous vote of all voting, (Councilman Duncan abstaining), the Minutes of Meeting No. 16-85, March 22, 1985, were approved as written.

Re: New Business

1. Councilman Abrams asked that the staff follow through on a letter he had received concerning cats needing rabies shots.

2. Councilman Abrams asked the staff renew the possibility of installing closed circuit television on the Lincoln Park/Frederick Overpass that could broadcast to the police quarters at City Hall.

3. Mayor Hovsepian noted that she would be bringing a letter to the Council of Governments urging the District of Columbia to raise the drinking age.

4. Mayor Hovsepian asked Council's approval to declare April as Fair Housing Month. The Council agreed.

5. Councilman Tyner noted that the Kiwanis Club Charity Breakfast will be held on April 13.

Re: Adjournment

There being no further business to come before the Council, the meeting was adjourned at 12:06 a.m. to convene again in general session on Friday, April 12, 1985, or at the call of the Mayor.